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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/328,391	06/09/1999	VINCENT BERGER	0154-2811-2	6762

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EXAMINER	
BROCK II, PAUL E	
ART UNIT	**PAPER NUMBER**
2815	

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/328,391	BERGER ET AL.	
	Examiner	Art Unit	
	Paul E Brock II	2815	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 November 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) *4,5,7-10,16,17 and 19-22* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,6,11-15,18,23 and 24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

1. Claims 4, 5, 7 – 10, 16, 17 and 19 – 22 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1 – 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosencher et al. (USPAT 5086327, Rosencher) in view of Katoh (USPAT 5041882).

With regard to claim 1, Rosencher discloses in figure 3 an electromagnetic wave detector. Rosencher discloses in figure 3 a stack of layers made of III-V semiconductor materials. Rosencher discloses in figure 3 a conduction band profile of the materials defining at least one quantum well (3), the quantum well having at least one first discrete energy level populated with electrons that are capable of passing to a second energy level under absorption of an electro magnetic wave. Rosencher discloses in figure 3 means for counting the electrons in the second

energy level. Rosencher discloses in figure 3 wherein the stack of layers of semiconductor materials furthermore comprises a transfer barrier layer (4), and an electron storage layer (5) separated from the quantum well by the transfer barrier layer. Rosencher discloses in figure in figure 3 wherein the electronic storage layer includes a metastable level. It should be noted that "a metastable level" describes an intended use property or a method of using property of the electronic storage layer as described by the applicant on page 8, lines 23 – 26 of the originally filed disclosure. Rosencher discloses in figure 3 wherein the transfer barrier layer includes a component having a concentration with a linear profile in a direction from the quantum well to the electron storage layer. Rosencher does not teach wherein the transfer barrier layer includes a component having a concentration that varies linearly, decreasing in a direction from the quantum well to the electron storage layer. Katoh teaches in figure 4 and column 3, line 20 – column 4, lines 6 wherein a transfer barrier layer (base) includes a component (P) having a concentration that varies linearly, decreasing in a direction from a quantum well (emitter) to an electron storage layer (collector). It would have been obvious to one of ordinary skill in the art at the time of the present invention to use the transfer barrier layer with a linearly decreasing component concentration of Katoh in the method of Rosencher in order to establish an electron accelerating electric field within the barrier layer as stated by Katoh in column 3, lines 37 – 48.

Rosencher discloses in figure 4 wherein a thickness of the transfer barrier layer is at least one order of magnitude greater than a thickness of the quantum well. Rosencher discloses in figure 3 wherein a lowest energy level of a conduction band of the transfer barrier layer being greater than the lower energy levels of the quantum well and the electron storage layers. Katoh teaches in column 3, lines 37 – 48 a conduction band profile of a stack of layers of

semiconductor materials decreases from a quantum well to a electron storage layer so as to further a flow of electrons from the second energy level to the electron storage layer.

With regard to claim 2, Rosencher discloses in figure 3 wherein the stack of layers made of III-V semiconductor materials furthermore comprises a first barrier layer (2) and a third barrier layer (6), both of the first and third layers being made of semiconductor materials such that a lowest energy level of a conduction band of the both layers is respectively greater than a lowest energy level of the conduction band of the quantum well and of the electron storage layer.

With regard to claim 3, Katoh discloses in column 3, lines 37 – 48 wherein a decreasing profile of the lowest energy level of the conduction band of the transfer barrier layer is obtained with a semiconductor alloy having a composition varying from the quantum well to the electron storage layer.

With regard to claim 11, Rosencher teaches in the abstract the electromagnetic wave detector further comprising means for resetting the flow of the electrons in the storage layer.

4. Claims 13, 14, 15, 18, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosencher et al. (USPAT 5086327, Rosencher) in view of Katoh (USPAT 5041882).

With regard to claim 13, Rosencher discloses in figure 3 an electromagnetic wave detector. Rosencher discloses in figure 3 a stack of layers made of III-V semiconductor materials. Rosencher discloses in figure 3 a conduction band profile of the materials defining at least one quantum well (3), the quantum well having at least one first discrete energy level populated with electrons that are capable of passing to a second energy level under absorption of

an electro magnetic wave. Rosencher discloses in figure 3 a counting unit configured to count the electrons in the second energy level. Rosencher discloses in figure 3 wherein the stack of layers of semiconductor materials furthermore comprises a transfer barrier layer (4), and an electron storage layer (5) separated from the quantum well by the transfer barrier layer. Rosencher discloses in figure in figure 3 wherein the electronic storage layer includes a metastable level.

Rosencher discloses in figures 3 and 5 the counting unit includes two electrodes in contact with said electron storage layer. Rosencher does not teach that first and second ohmic contacts are located at the electron storage layer. Nanbu discloses in the Constitution section and figure 1 a counting unit includes two electrodes (4 and 5) in direct contact with an electron storage layer (10), and said two electrodes are separated from the quantum well (1). It would have been obvious to one of ordinary skill in the art at the time of the present invention to use the ohmic contacts of Nanbu in the device of Rosencher in order to stably realize electron mobility as stated by Nanbu in the abstract portion of the English translation.

Rosencher discloses in figure 4 wherein a thickness of the transfer barrier layer is at least one order of magnitude greater than a thickness of the quantum well. Rosencher discloses in figure 3 wherein a lowest energy level of a conduction band of the transfer barrier layer being greater than the lower energy levels of the quantum well and the electron storage layers. Rosencher and Nanbu do not teach that the conduction band profile of the stack of layers of semiconductor materials decreases from the quantum well to the electron storage layer. Katoh teaches in column 3, lines 37 – 48 a lower energy level of a conduction band profile of a stack of layers of semiconductor materials decreases from a quantum well to a electron storage layer so

as to further a flow of electrons from the second energy level to the electron storage layer. It would have been obvious to one of ordinary skill in the art at the time of the present invention to use the transfer barrier layer with a decreasing lower energy level of its conduction band of Katoh in the method of Rosencher and Nanbu in order to establish an electron accelerating electric field within the barrier layer as stated by Katoh in column 3, lines 37 – 48.

With regard to claim 14, Rosencher discloses in figure 3 wherein the stack of layers made of III-V semiconductor materials furthermore comprises a first barrier layer (2) and a third barrier layer (6), both of the first and third layers being made of semiconductor materials such that a lowest energy level of a conduction band of the both layers is respectively greater than a lowest energy level of the conduction band of the quantum well and of the electron storage layer.

With regard to claim 15, Katoh discloses in column 3, lines 37 – 48 wherein a decreasing profile of the lowest energy level of the conduction band of the transfer barrier layer is obtained with a semiconductor alloy having a composition varying from the quantum well to the electron storage layer.

With regard to claim 18, Nanbu discloses in the Constitution section and figure 1 wherein the counting unit is configured to carry out a measurement of a photocurrent in a plane of the electron storage layer.

With regard to claim 23, Rosencher teaches in the abstract the electromagnetic wave detector further comprising means for resetting the flow of the electrons in the storage layer.

With regard to claim 24, Nanbu discloses in figure 1 that the third and fourth contacts are located on either side of a stack of layers of semiconductor materials.

5. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosencher and Katoh as applied to claim 1 above, and further in view of Nanbu (JPPAT 61054673).

With regard to claims 6, Rosencher and Katoh do not teach that first and second ohmic contacts are located at the electron storage layer. Nanbu discloses in the Constitution section and figure 1 a first (4) and second (5) ohmic contacts, both of the first and second ohmic contacts being located at an electron storage layer (10) so as to carry out a measurement of photocurrent in a plane of the storage layer. It would have been obvious to one of ordinary skill in the art at the time of the present invention to use the ohmic contacts of Nanbu in the device of Rosencher and Katoh in order to stably realize electron mobility as stated by Nanbu in the abstract portion of the English translation.

With regard to claims 12, Nanbu discloses in figure 1 that the third and fourth contacts are located on either side of a stack of layers of semiconductor materials.

Response to Arguments

6. Applicant's arguments filed November 12, 2003 have been fully considered but they are not persuasive.

7. With regard to the applicant's arguments against Katoh in the last paragraph on page 14 of the arguments filed November 12, 2003, it should be noted that P and As are not impurities in the semiconductor layer disclosed by Katoh in column 3, line 20 – column 4, line 6. Both P and

As are structural components of the transfer barrier semiconductor layer. Katoh clearly discloses in figure 4, and column 3, line 60 – column 4, line 6 that the concentration of P decreases linearly from a quantum well (emitter) to an electro storage layer (collector). Therefore, the applicant's arguments are not persuasive, and the rejection is proper.

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Therefore, the applicant's arguments are not persuasive, and the rejection is proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul E Brock II whose telephone number is (703) 308-6236. The examiner can normally be reached on 8:30 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Thomas can be reached on (703) 308-2772. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

Paul E Brock II
January 15, 2004

Tom Thomas